

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

LARRY FREUDENBERG, Individually And On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN AND ROBERT J.  
SIMMONS,

Defendants.

Civil Action No. 07-cv-8538 (RWS)

CLASS ACTION

WILLIAM BOSTON, Individually And On  
Behalf Of All Others Similarly Situated,

Plaintiff,

vs.

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN AND ROBERT J.  
SIMMONS,

Defendants.

Civil Action No. 07-cv-8808 (RWS)

ROBERT D. THURMAN, Individually And On  
Behalf Of All Others Similarly Situated,

Plaintiff,

vs.

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN AND ROBERT J.  
SIMMONS,

Defendants.

Civil Action No. 07-cv-9651 (RWS)

WENDY M. DAVIDSON, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN AND ROBERT J.  
SIMMONS,

Defendants.

Civil Action No. 07-cv-10400 (UA)

JOSHUA FERENC, individually and on behalf  
of all others similarly situated,

Plaintiff,

vs.

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN AND ROBERT J.  
SIMMONS,

Defendants.

Civil Action No. 07-cv-10540 (SHS)

**[PROPOSED] ORDER CONSOLIDATING ALL RELATED ACTIONS,  
APPOINTING LEAD PLAINTIFF AND APPROVING THE SELECTION OF  
LEAD COUNSEL**

Having considered the motion of Kristen Management Limited, Straxton Properties Inc. and Javed Fiyaz (collectively, the “Kristen-Straxton Group”) to consolidate all related actions, to be appointed Lead Plaintiff, and for approval of its selection of Lead Counsel; the memorandum of law in support thereof; the Declaration of Elizabeth A. Schmid, Esq. in support of that motion; all other papers submitted in connection therewith; and good cause appearing therefore,

**IT IS HEREBY ORDERED:**

1. The above-captioned actions are hereby consolidated for all purposes (the “Consolidated Action”).
  - A. This Order shall apply to the Consolidated Action and to each case that relates to the same subject matter that is subsequently filed in this Court or is transferred to this Court and is consolidated with the Consolidated Action.
  - B. A Master File is established for this proceeding. The Master File shall be Civil Action No. 07-Civ-8538. The Clerk shall file all pleadings in the Master File and note such filings on the Master Docket.
  - C. An original of this Order shall be filed by the Clerk in the Master File.
  - D. The Clerk shall mail a copy of this Order to counsel of record in the Consolidated Action.
  - E. Every pleading in the Consolidated Action shall have the following caption:

IN RE E*TRADE FINANCIAL	)	
CORPORATION SECURITIES	)	Civil Action No. 07-cv-8538
LITIGATION	)	

F. The Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of the Consolidation Action.

G. When a cause that arises out of the same subject matter of the Consolidated Action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

- i. File a copy of this Order in the Separate file for such action;
- ii. Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or transferred case and to any new defendant(s) in the newly-filed case; and
- iii. Make the appropriate entry in the Master Docket for the Consolidated Action.

H. Each new case that arises out of the subject matter of the Consolidated Action which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to the consolidation, as provided for herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application. Nothing in the forgoing

shall be construed as a waiver of the defendants' right to object to consolidation of any subsequently-filed or transferred related action.

2. The Kristen-Straxton Group is appointed to serve as lead plaintiff in the above-captioned consolidated action pursuant to 15 U.S.C. § 78u-4(a)(3)(B).

3. The law firm Brower Piven, A Professional Corporation ("Brower Piven") is hereby approved as Lead Counsel for the Class. Brower Piven shall provide general supervision of the activities of plaintiff's counsel and shall have the following responsibilities and duties to perform or delegate as appropriate:

- A. To brief and argue motions;
- B. To initiate and conduct discovery, including, without limitation, coordination of discovery with defendants' counsel, the preparation of written interrogatories, requests for admissions, and requests for production of documents;
- C. To direct and coordinate the examination of witnesses in depositions;
- D. To act as spokesperson at pretrial conferences;
- E. To call and chair meetings of plaintiffs' counsel as appropriate or necessary from time to time;
- F. To initiate and conduct any settlement negotiations with counsel for defendants;
- G. To provide general coordination of the activities of plaintiffs' counsel and to delegate work responsibilities to selected counsel as may be required in such a manner as to lead to the orderly and efficient

prosecution of this litigation and to avoid duplication or unproductive efforts;

- H. To consult with and employ experts;
- I. To receive and review periodic time reports of all attorneys on behalf of plaintiffs, to determine in the time is being spent appropriately and for the benefit of plaintiffs, and to determine and distribute plaintiffs' attorney's fees, and;
- J. To perform such other duties as may be expressly authorized by further order of this Court.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
Honorable Robert W. Sweet  
United States District Judge